THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DENNIS E. RICH

Appeal No. 96-4144
Application No. 08/169,019[1]

ON BRIEF

Before COHEN, FRANKFORT, and NASE, Administrative Patent Judges.

NASE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 9, which are all of the claims pending in this application.

We REVERSE.

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[1] Application for patent filed December 20, 1993.

BACKGROUND

The appellant's invention relates to a hanging rack for printed circuit panels. Claim 1 is representative of the subject matter on appeal and a copy of claim 1, as it appears in the appendix to the appellant's brief, is attached to this decision.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Shave et al. (Shave)	1,248,732	Dec. 4, 1917
Husted et al. (Husted)	4,502,601	Mar. 5, 1985

Claims 1 through 9 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the appellant regards as the invention.

Claims 1 through 6 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Husted.

Claim 7 stand rejected under 35 U.S.C. § 103 as being unpatentable over Husted in view of Shave.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 7, mailed January 17, 1996) and the supplemental examiner's answer (Paper No. 9, mailed June 11, 1996) for the examiner's complete reasoning in support of the rejections, and to the appellant's brief (Paper No. 6, filed October 10, 1995) and reply brief (Paper No. 8, filed March 18, 1996) for the appellant's arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

The indefiniteness issue

We will not sustain the examiner's rejection of claims 1 through 9 under 35 U.S.C. § 112, as being indefinite for failing

to particularly point out and distinctly claim the subject matter which the appellant regards as the invention.

The second paragraph of 35 U.S.C. § 112 requires claims to set out and circumscribe a particular area with a reasonable degree of precision and particularity. In re Johnson, 558 F.2d 1008, 1015, 194 USPQ 187, 193 (CCPA 1977). In making this determination, the definiteness of the language employed in the claims must be analyzed, not in a vacuum, but always in light of the teachings of the prior art and of the particular application disclosure as it would be interpreted by one possessing the ordinary level of skill in the pertinent art. Id.

The examiner's focus during examination of claims for compliance with the requirement for definiteness of 35 U.S.C. § 112, second paragraph, is whether the claims meet the threshold requirements of clarity and precision, not whether more suitable language or modes of expression are available. Some latitude in the manner of expression and the aptness of terms is permitted even though the claim language is not as precise as the examiner might desire. If the scope of the invention sought to be patented cannot be determined from the language of the claims

with a reasonable degree of certainty, a rejection of the claims under 35 U.S.C. § 112, second paragraph, is appropriate.

The examiner's statement of this rejection (answer, pp. 3-4) is

> [r]egarding claims 1, 3, 8, and 9, the phrase "roller means movable on the sloping surface" is indefinite - either the roller means moves along the sloping surface or it doesn't and not may be. . . . Regarding claim 2, it is not clear whether "a sloping surface" on line 2 is the same "sloping surface" recited on line 4 of claim 1.

For the reasons set forth by the appellant (brief, pp. 14-15), we conclude that the claims are definite since the scope of the claims would be reasonably ascertainable by those skilled in the art. Regarding claim 1, the phrase "roller means movable on the sloping surface" is definite since it accurately describes the relationship between the appellant's rollers 160, 162 and their respective sloping surfaces 34, 54. That is, the rollers 160, 162 are movable on their respective sloping surfaces 34, 54 when (1) a circuit panel is inserted between the rollers 160, 162 and their respective front vertical surfaces 28, 48, and (2) the stem (i.e., pin 170) is moved upwardly to release the circuit panel. Otherwise, the rollers 160, 162 do not move on their respective sloping surfaces 34, 54. Regarding claim 2, it is our

determination that it would be reasonably clear to those skilled in the art that a only a pair of sloping surfaces are recited and not three sloping surfaces. Since the scope of the invention sought to be patented can be determined from the language of the claims with a reasonable degree of certainty, the examiner's rejection of claims 1 through 9 under 35 U.S.C. § 112, second paragraph, is reversed.

The anticipation issue

We will not sustain the examiner's rejection of claims 1 through 6 under 35 U.S.C. § 102(b) as being anticipated by Husted.

To support a rejection of a claim under 35 U.S.C. § 102(b), it must be shown that each element of the claim is found, either expressly described or under principles of inherency, in a single prior art reference. See Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984).

Claim 1 is directed to a hanging rack apparatus for holding printed circuit panels. The hanging rack apparatus comprises,

inter alia, slot means for receiving a printed circuit panel, including a sloping surface, roller means movable on the sloping surface for holding the printed circuit panel in the slot means, and a stem secured to the roller means for moving the roller means upwardly on the sloping surface for releasing the printed circuit panel.

Husted discloses a low friction insertion force retainer used as a mounting for a battery of printed electronic circuit boards. As shown in Figure 1, a plurality of printed electronic circuit boards 14 are held by opposite left and right-hand retainers 15 and 16 mounted on interior walls 17 and 18 of a housing 10. In the embodiment shown in Figures 1 through 6, the retainers 15 and 16, exemplified in some detail by the left retainer 15, comprises a body or block 24. The blocks 24 are mounted in pairs upon the adjacent side wall 17. The blocks 24 are formed with a flange 25 against which the circuit board 14 is pressed. On the side of the block 24 opposite from the flange 25 is a section 26, an edge face 27 of which is spaced from the corresponding flange 25 in order to provide a slot 28 for initial reception of the circuit board 14. The section 26 is also provided with a pocket 29 which extends throughout the length of

the block and which, as a matter of structural and operative convenience, may be arcuate in cross-sectional configuration. A rod member 30 is provided in block 24 to clamp and unclamp the circuit board 14. The rod member 30 is provided with opposite parallel flat clearance faces 31 and 32 and camming surfaces 33 and 34. Acting in part to hold the rod member 30 within the pocket 29 is a leaf spring member 39. The leaf spring member 39 is provided on one side with a leaf 40 coextensive with the length of the block 24. The leaf 40 is urged resiliently in a direction from right to left, as viewed in Figure 4, to bear against the clearance face 31, hold the rod member 30 in its position within the pocket 29, and at the same time provide sufficient clearance in the slot 28 of breadth greater than the thickness of the circuit board 14 so that the circuit board can be slid into the slot with an ultimate minimum amount of frictional resistance approaching zero. Once the circuit board is in position, the rod member 30 is rotated approximately ninety degrees about its axis of rotation so as to bring the camming surface 33 into engagement with the leaf 40 and tilt the leaf resiliently into engagement with the adjacent edge surface of the circuit board, as shown in the right-hand version of Figure 4. In this manner camming action of the rod member 30 locks the

circuit board in a position of engagement with the flange 25. Rotation of the rod member 30 is accomplished by use of a tool 45, a slotted end 46 of which engages a drive pin 47 extending transversely through the adjacent end of the rod member 30. To limit rotation of the rod member 30 to approximately the desired ninety degrees, there is provided a stop pin 48 which also extends transversely through the rod member 30 at a location spaced from the drive pin 47. To accommodate the stop pin there is a stop slot 49 in the block 24 at opposite ends of which are stop shoulders 50 and 51.

The examiner's statement of this rejection (answer, pp. 4-5) is

> Husted '601 discloses a hanging rack apparatus for holding a printed circuit panels comprising in combination, a pair of slot means (consider two end opening 29 of the rod 24, fig. 6) having a first vertical surface (27, fig. 3), a second vertical surface (27, fig. 3), and sloped surface (29, fig. 3) extending upwardly from the second vertical surface (27), a pair of roller means (consider the curved portions 33 and 34 at each end portion of 30 as in figure 3) movable on the slope surface for holding the circuit panel (14), a block (consider the portion of 30 between 33 and 34), a stem (47) secured to the block for moving the roller means (33 and 34, fig. 4) upwardly on the sloping surface for releasing the panel.

For the reasons set forth by the appellant (brief, pp. 9-10 and 12), we conclude that claim 1 is not anticipated by Husted.

We agree with the appellant that the claimed "roller means movable on the sloping surface for holding the printed circuit

panel in the slot means" does not "read on"[2] Husted's configuration (i.e., rod member 30 having camming surfaces 33 and 34). Since each element of claim 1 is not found, either expressly described or under principles of inherency, in Husted, the examiner's rejection of claim 1, and claims 2 through 6 dependent thereon, under 35 U.S.C. § 102(b) is reversed.

The obviousness issue

We will not sustain the examiner's rejection of claim 7 under 35 U.S.C. § 103 as being unpatentable over Husted in view of Shave.

Claim 7 depends from claim 6 which depends from claim 1. The additional prior art of Shave does not provide any teaching or suggestion that would have made it obvious to one of ordinary skill in the art to have modified Husted to include "roller

[2] The inquiry as to whether a reference anticipates a claim must focus on what subject matter is encompassed by the claim and what subject matter is described by the reference. As set forth by the court in Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984), it is only necessary for the claims to "'read on' something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or 'fully met' by it."

means" as recited in claim 1. Accordingly, the examiner's rejection of claim 7 under 35 U.S.C. § 103 is reversed.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1 through 9 under 35 U.S.C. § 112, second paragraph, claims 1 through 6 under 35 U.S.C. § 102(b), and claim 7 under 35 U.S.C. § 103 is reversed.

REVERSED

IRWIN CHARLES COHEN Administrative Patent Judge	)	
CHARLES E. FRANKFORT Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
JEFFREY V. NASE Administrative Patent Judge	)	

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APPENDIX

1. Hanging rack apparatus for holding printed circuit panels comprising in combination:

slot means for receiving a printed circuit panel, including a sloping surface;

roller means movable on the sloping surface for holding the printed circuit panel in the slot means; and

a stem secured to the roller means for moving the roller means upwardly on the sloping surface for releasing the printed circuit panel.

APPEAL NO. 96-4144 - JUDGE NASE
APPLICATION NO. 08/169,019

APJ NASE

APJ FRANKFORT

APJ COHEN

DECISION: **REVERSED**

Prepared By: Delores A. Lowe

DRAFT TYPED: 04 May 98

FINAL TYPED: